



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,733	02/25/2004	Frederick James Diggle III	BE1-0056US	2744
49584	7590	07/17/2006	EXAMINER	
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE. SUITE 500 SPOKANE, WA 99201			WATSON, ROBERT C	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/786,733	DIGGLE ET AL.	
	Examiner	Art Unit	
	Robert C. Watson	3723	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ They raise the issue of new matter (see NOTE below);
 - (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE


8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


ROBERT C. WATSON
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have absolutely no persuasive value because they are based on false conclusions about what is shown in the Tihon drawings. Applicant states that Tihon does not show a circular outer diameter - this statement is seen to fly in the face of each and every figure of Figures 1-14 and is found to be an intentional mischaracterization of what the drawings clearly show. Applicant also states that Tihon does not "an end portion comprising a spiral groove extending from the end portion partially along the longitudinal portion" - this statement is seen to fly in the face of at least Figures 1, 1a, 2, and 9 which shows the spiral groove(s) at the end of the circular member. This statement is seen to be an intentional mischaracterization of what the drawings clearly show. While a spiral groove may have an infinite number of intended uses, the intended use specified in the claims is seen to be capable of being performed by the spiral groove in Tihon. The fact that Tihon may have a different intended use for that spiral groove does not make the Tihon groove an less effications for performing the same intended use recited in applicant's claim. Indeed there is absolutely nothing that would prevent the spiral groove in Tihon from accomplishing the intended use recited in applicant's claim. Next applicant argues that Tihon and Prior Art Figure 1 are not properly combinable because, allegedly, they are from diverse fields of art. Prior art Figure 1 is a broad teaching of a reel from the field of art that comprises elongate flexible members and Tihon, column 4 states that the Tihon device is an "elongate flexible member". Since both prior art devices deal in particular with elongate flexible members they are from the same body of art. Applicant apparently fails to appreciate the extremely broad nature of claim 1. For example, an elongate member with a plurality of spiral grooves extending from the end thereof with a particular diameter reads on each and every drill bit sold in all hardware stores throughout the world! Applicant's suggestion that this claim is somehow patentable is found to be based on a lack of reason and a lack of experience as to what kind of things are commonly found in hardware stores and workman's tool boxes.



ROBERT C. WATSON
PRIMARY EXAMINER